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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Phillips et al.  
Serial No.: 10/613,424  
Filing Date: July 2, 2003  
For: Surgical Retractor With Improved Arms

Examiner: D. Comstock  
Group A.U.: 3732

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, Virginia 22313-1450

**RESPONSE TO FINAL OFFICE ACTION**

Dear Sir:

In the Final Office Action dated March 8, 2005, the Examining Attorney reiterated the rejections of the September 9, 2004, Office Action almost verbatim.

*Do not file*

The applicant provided a structural limitation to the claims which required the "middle segment of the first arm to be angled toward the second arm laterally displacing the third segment relative to the first segment toward the second arm." In the response to arguments, the Examiner states: "A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art." Unfortunately, the Office Action characterizes the structural limitation as an "intended use" which is not believed to be accurate.

The applicant respectfully requests the Examining Attorney reconsider this position to avoid the necessity of filing an Appeal as it relates to these claim limitations which are not believed to be taught by the cited references.